
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

KENTON W. STEPHENS,

Plaintiff,

vs.

ALLIANT TECHSYSTEMS
CORPORATION and FIDELITY
INVESTMENTS INSTITUTIONAL
OPERATIONAL COMPANY,

Defendants.

**REPORT AND RECOMMENDATION ON
PLAINTIFF'S SECOND MOTION FOR
DECLARATORY JUDGMENT
([ECF NO. 47](#))**

Case No. 1:15-cv-108-RJS-EJF

District Judge Robert J. Shelby
Magistrate Judge Evelyn J. Furse

Plaintiff Kenton W. Stephens, proceeding *pro se*, requests declaratory judgment against Defendants Alliant Techsystems Inc. (“ATK”) and Fidelity Investments Institutional Operations Company, Inc. (“Fidelity”) “based on alleged false claims made to The Court” by ATK and Fidelity in their Motion for Summary Judgment, ([ECF No. 30](#)). (Plaintiff’s Motion for Court to Enter Declaratory Judgment in Favor of Plaintiff Based on Defendant’s [sic] Allegedly False Claims to The Court in Defendant’s [sic] Motion for Summary Judgment as Entered on 12/01/2015 (“Mot.”), [ECF No. 47](#).) Mr. Stephens ask for a host of relief from the Court as part of his Motion. (See Mot. 5–6, [ECF No. 47](#).) ATK and Fidelity oppose Mr. Stephens’s Motion as procedurally improper. (Defs.’ Resp. to Pl.’s Mot. (Opp’n) 2, [ECF No. 59](#).)

This Court cannot grant Mr. Stephens declaratory relief on claims or allegations he has not pled in his Complaint. See [Miami Tribe v. United States](#), Civil Action No. 03-2220-DJW, 2008 WL 4172244, at *2 (D. Kan. Sept. 5, 2008) (unpublished) (“Where [plaintiff] seeks to expand the scope of relief sought in its original Complaint, it would violate fundamental fairness and the purpose of notice pleading for the Court to take up the motion for summary judgment

without a formal amendment to the pleadings.”); *see accord Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (noting Rule 8(a)’s requirement of a short and plain statement of the claims against defendants ensures that defendants enjoy fair notice of the claims against them and the grounds upon which they rest). Neither Mr. Stevens’s Complaint nor his Revised Complaint seeks declaratory judgment based on false claims made to this Court. (ECF Nos. 1 & 34.) Therefore, the undersigned RECOMMENDS the Court deny the Motion.

The Court will send copies of this Report and Recommendation to the parties, who the Court hereby notifies of their right to object to the same. The Court further notifies the parties that they must file any objection to this Report and Recommendation with the clerk of the court, pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), within fourteen (14) days of service thereof. Failure to file timely and specific objections may constitute waiver of objections upon subsequent review.

DATED this 18th day of August, 2016.

BY THE COURT:



EVELYN J. FORSE
United States Magistrate Judge